

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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RUSSELL GATES,

Plaintiff,

v.

JEFF WELLS, *et al.*,

Defendants.

Case No. 3:13-cv-00228-MMD-VPC

ORDER ADOPTING AND ACCEPTING
REPORT AND RECOMMENDATION OF
MAGISTRATE JUDGE
VALERIE P. COOK

Before the Court is the Report and Recommendation of United States Magistrate Judge Valerie P. Cooke (ECF No. 32) ("R&R"), recommending that the Court grant Defendants' Motion to Dismiss (ECF No. 30). Plaintiff had until July 2, 2016 to object. (ECF No. 32.) To date, no objection to the R&R has been filed.

This Court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1). Where a party timely objects to a magistrate judge's report and recommendation, then the court is required to "make a *de novo* determination of those portions of the [report and recommendation] to which objection is made." 28 U.S.C. § 636(b)(1). Where a party fails to object, however, the court is not required to conduct "any review at all . . . of any issue that is not the subject of an objection." *Thomas v. Arn*, 474 U.S. 140, 149 (1985). Indeed, the Ninth Circuit has recognized that a district court is not required to review a magistrate judge's report and recommendation where no objections have been filed. See *United States v. Reyna-Tapia*, 328 F.3d 1114 (9th Cir. 2003) (disregarding the standard of review employed by the district court when reviewing a report and recommendation to

1 which no objections were made); see also *Schmidt v. Johnstone*, 263 F. Supp. 2d 1219,
2 1226 (D. Ariz. 2003) (reading the Ninth Circuit's decision in *Reyna-Tapia* as adopting the
3 view that district courts are not required to review "any issue that is not the subject of an
4 objection."). Thus, if there is no objection to a magistrate judge's recommendation, then
5 the court may accept the recommendation without review. See, e.g., *Johnstone*, 263 F.
6 Supp. 2d at 1226 (accepting, without review, a magistrate judge's recommendation to
7 which no objection was filed).

8 Nevertheless, this Court finds it appropriate to engage in a *de novo* review to
9 determine whether to adopt Magistrate Judge Cooke's R&R. The R&R recommends that
10 this action be dismissed with prejudice for failure to timely substitute parties under
11 Fed.R.Civ.P. 25(a)(1) and want of prosecution pursuant to Fed.R.Civ.P. 41(b). Upon
12 reviewing the R&R and filings in this case, this Court finds good cause to accept and
13 adopt the Magistrate Judge's R&R in full.

14 It is therefore ordered, adjudged and decreed that the Report and
15 Recommendation of Magistrate Judge Valerie P. Cooke (ECF No. 32) is accepted and
16 adopted in its entirety.

17 It is further ordered that Defendants' Motion to Dismiss (ECF No. 30) is granted
18 and this action is dismissed with prejudice.

19 The Clerk is directed to enter judgment in accordance with this Order and close
20 this case.

21 DATED THIS 27th day of July 2016.

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24 MIRANDA M. DU
25 UNITED STATES DISTRICT JUDGE
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